

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-10-9
Served 10/10/96

Action on IATA Agreement
Issued by the Department of Transportation
on the 4th day of October, 1996

Agreement adopted by the Tariff :
Coordinating Conferences of the : **Docket** OST-96-1601
International Air Transport Association : R-1 and R-2
relating to U.S.-Europe passenger fares :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 412(a) of the Federal Aviation Act of 1958, as amended, and Part 303 of the Department's regulations. The agreement was adopted by mail vote and proposed for expedited effectiveness on September 1, 1996.^{1/}

The agreement proposes several minor changes to existing fares in U.S.-European alliance (Austria, Belgium, Germany, the Netherlands and Switzerland) and Scandinavian markets.^{2/} These extend the

^{1/} IATA memoranda TC12 MV/P 0371 (Mail Vote 812).

^{2/} Orders 96-5-27, May 21 1996, and 96-6-33, June 17, 1996, which granted antitrust immunity to certain carrier alliances, precluded each alliance carrier from participating in IATA tariff coordination in certain markets covered by the immunity. In order to meet these conditions, the regular IATA TC12 North Atlantic Traffic Conference meeting did not address fares between the United States and Austria, Belgium, Germany, the Netherlands and Switzerland. In addition, SAS requested that discussions affecting Scandinavia be removed from the meeting agenda since it has submitted an alliance agreement to the Department for approval and immunization. Although IATA intended to convene a separate TC12 North Atlantic meeting, without these alliance carriers, to discuss fares affecting the five European immunized-alliance countries and Scandinavia, this meeting was not held due to the lack of a quorum. Instead, resolutions affecting the alliance countries and Scandinavia were adopted by mail vote, and exclude SAS and the IATA carriers who belong to the above

applicability of all specified and proportional fares from Austria, Belgium, Germany and the Netherlands for an additional one year period through March, 1998; and revise seasonal definitions for special fares from the United States to Austria, Belgium, Germany, the Netherlands, Scandinavia and Switzerland to reflect 1997 Easter dates.

We will approve the agreement, subject to previously imposed conditions. Based on the information submitted and other relevant material, we conclude that the agreement, as conditioned above, will not result in fares that are unlawful or injurious to competition in the markets at issue.

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-96-1601 and which have direct application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject to conditions previously imposed:

<u>Docket</u>	<u>IATA</u>	<u>Title</u>	<u>Application</u>
<u>OST-96-1601</u>	<u>Reso</u>		
R-1	002n	TC12 North Atlantic Special Amending Resolution between USA and Austria, Belgium, Germany, Netherlands	1/2
R-2	002v	TC12 North Atlantic Special Amending Resolution from USA to Austria, Belgium, Germany, Netherlands, Scandinavia, Switzerland	1/2

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of an antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of the fare and rate conferences will be subject to individual scrutiny and will be

immunized marketing alliances.

approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under 49 U.S.C. 41308. Consequently, we will grant an antitrust immunity to the agreement in Docket OST-96-1601 as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-96-1601, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition to the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Department of Transportation upon expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Aviation and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)

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